

on whose land he produced them. Ordinarily, a practice performed by a farmer in connection with farming operations conducted on land which he owns or leases will be considered as performed in connection with the farming operations of such farmer in the absence of facts indicating that the farming operations are actually those of someone else. Conversely, a contrary conclusion will ordinarily be justified if such farmer is not the owner or a bona fide lessee of such land during the period when the farming operations take place. The question of whose farming operations are actually being conducted in cases where they are performed pursuant to an agreement or arrangement, not amounting to a bona fide lease, between the farmer who performs the practice and the landowner necessarily involves a careful scrutiny of the facts and circumstances surrounding the arrangement. Where commodities are grown on the farm of the actual grower under contract with another, practices performed by the latter on the commodities, off the farm where they were grown, relate to farming operations of the grower rather than to any farming operations of the contract purchaser. This is true even though the contract purports to lease the land to the latter, give him the title to the crop at all times, and confer on him the right to supervise the growing operations, where the facts as a whole show that the contract purchaser provides a farm market, cash advances, and advice and counsel but does not really perform growing operations (*Mitchell v. Huntsville Nurseries*, 267 F. 2d 286).

“SUCH FARMING OPERATIONS”—ON THE FARM

**§ 780.141 Practices must relate to farming operations on the particular farm.**

“Practices \* \* \* performed \* \* \* on a farm” must be performed as an incident to or in conjunction with “such farming operations” in order to constitute “agriculture” within the secondary meaning of the term. No practice performed with respect to farm commodities is within the language under discussion by reason of its performance on a farm unless all of such

commodities are the products of that farm. Thus, the performance on a farm of any practice, such as packing or storing, which may be incidental to farming operations cannot constitute a basis for considering the employees engaged in agriculture if the practice is performed upon any commodities that have been produced elsewhere than on such farm (see *Mitchell v. Hunt*, 263 F. 2d 913). The construction by an independent contractor of granary on a farm is not connected with “such” farming operations if the farmer for whom it is built intends to use the structure for storing grain produced on other farms. Nor is the requirement met with respect to employees engaged in any other practices performed on a farm, but not by a farmer, in connection with farming operations that are not conducted on that particular farm. The fact that such a practice pertains to farming operations generally or to those performed on a number of farms, rather than to those performed on the same farm only, is sufficient to take it outside the scope of the statutory language. Area soil surveys and genetics research activities, results of which are made available to a number of farmers, are typical of the practices to which this principle applies and which are not within section 3(f) under this provision.

**§ 780.142 Practices on a farm not related to farming operations.**

Practices performed on a farm in connection with nonfarming operations performed on or off such farm do not meet the requirement stated in § 780.141. For example, if a farmer operates a gravel pit on his farm, none of the practices performed in connection with the operation of such gravel pit would be within section 3(f). Whether or not some practices are performed in connection with farming operations conducted on the farm where they are performed must be determined with reference to the purpose of the farmer for whom the practice is performed. Thus, land clearing operations may or may not be connected with such farming operations depending on whether or not the farmer intends to devote the cleared land to farm use.